female mammal, dysmenorrhea, or functional uterine bleeding or hemorrhaging.

Cancel claim 31 without prejudice or disclaimer.

Add the following new claim:

--35. A pharmaceutical composition comprising an admixture of effective amounts of:

(a) a progestin and

(b) a nitric oxide donor, wherein the amount of nitric oxide donor is effective to provide a blood level of about 1-1000 nmole,

and, optionally,

(c) at least one of a cyclooxygenase inhibitor, a PGI_2-mimetic, a thromboxane (TXA_2) inhibitor, a PGI_2-mimetic, a thromboxane (TXA_2) inhibitor, a compound possessing PGI_2-agonistic and TXA_2-inhibiting properties, a compound possessing TXA_2-antagonistic and PGI_2-memetic activities, and a TXA_2-antagonist, in amounts effective to ameliorate the symptoms of preeclampsia accompanied or unaccompanied by preterm labor in a pregnant female mammal, dysmenorrhea, or functional uterine bleeding or hemorrhaging. --

REMARKS

Claim 31 was indicated as allowable in the previous Office action. It has now been rewritten in independent form as Claim 35. The examiner is thanked for recognizing that such claim contained allowable subject matter.

Claim 34 was not examined in the previous Office action, since, allegedly, "it was not the elected species." Applicant respectfully traverse this action. applicant has the right to have the entirety of the claims examined. By refusing to examine claim 34 on its merits, applicant is denied the right to have the invention examined.

> As a general proposition, an applicant has a right to have *each* claim examined on the merits. If an applicant submits a number of claims, it may well be that pursuant to a proper restriction requirement, those claims will be dispersed to a number of applications. Such action would not affect the right of the applicant eventually to have each of the claims examined in the form he considers to best define his invention. If, however, a single claim is required to be divided up and presented in several applications, that claim would never be considered on its merits. The totality of the resulting fragmentary claims would not necessarily be the equivalent of the original claim.

In re Weber et al., 198 U.S.P.Q. 328 (C.C.P.A. 1978)

The statement in the Office Action that, had Claim 34 been examined, it would have been rejected under §112, first paragraph, is respectfully traversed. All Applicant has done in submitting Claim 34 is to eliminate a species (i.e., aspirin) that was disclosed in the specification. The entire genus is described in the specification; so is the species, aspirin, e.g., Page 6, line 26; Page 7, line 15. The skilled worker would have recognized that the genus *sans* aspirin is also described. According to the C.C.P.A. in In re Johnson and Farnham, 194 USPQ 187 (CCPA 1977):

> The notion that one who fully discloses, and teaches those skilled in the art how to make and use, a genus and numerous species therewithin, has somehow failed to disclose, and teach those skilled in the art how to make and use, that genus minus two of those species, and has thus failed to satisfy the requirements of §112, first paragraph, appears to result from a hypertechnical application of legalistic prose relating to that provision of the statute. All that happened here is that appellants narrowed their claims to avoid having them read on a lost interference count.

The rejection over Harrison et al., U.S. Pat. No. 5,508,045, is traversed. Harrison et al., do not disclose or suggest a pharmaceutical composition comprising, e.g., a progestin, a nitric acid substrate or donor, and at least one of a cyclooxygenase inhibitor, a PGI_2-mimetic, a thromboxane (TXA_2) inhibitor, a PGI_2-mimetic, a thromboxane (TXA_2) inhibitor, a compound possessing PGI_2-agonistic and TXA_2-inhibiting properties, a compound possessing TXA_2-antagonistic and PGl_2-memetic activities, and a TXA_2-antagonist. Harrison et al., for

instance, at Column 20, lines 50-Column 22, lines 39, discloses a composition which optionally comprises a second agent which is a tocolytic agent. Harrison et al., Column 20, lines 57-60. There is no disclosure or suggestion of a composition comprising, e.g., three distinct agents. Moreover, the treatment indication of Harrison's composition is different from applicant's, therefore there would have been no motivation to have modified to have arrived at the present invention. For instance, Harrison clearly does not disclose or suggest preterm labor as part of the preeclampsia syndrome, and in fact, explicitly teaches away from using tocolytic agents (for labor inhibition) in the case of preeclampsia. See, e.g., Column 2, lines 4-13 ("contraindications such as eclampsia, preeclampsia ...")

Withdrawal of the rejection is therefore respectfully requested.

Respectfully submitted,

By: _____

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